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**COMMENTS OF THE
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SUMMARY

The Washington State Association of Broadcasters (hereinafter "Association") appreciates the opportunity to present the views of its members on the Commission's inquiry on the service to their local communities provided by free, over-the-air broadcasters. "...*the public interest, convenience and necessity*" forms the common commitment of community service for Washington's broadcasters who play a vital and active role in the lives of every Washington community every day. Washington's local radio and television stations work as hard every day to benefit their communities as they do to make their businesses a success. This Comment provides a small sampling of Washington broadcasters' efforts to serve the public interest, taken from six surveys of stations' community and public affairs programming conducted by the Association since 1998.

Determining the needs and interests of the community it serves is the foundation of a broadcaster's services in the public interest. The Commission should not, however, return to a rigidly structured ascertainment procedure. The Commission's reasons for eliminating the formalities of ascertainment, while continuing to require licensees to provide issue-responsive programming, are as valid today as they were in the 1980s. Broadcasters continue to ascertain the needs of their communities in myriad ways that a rigid, formal ascertainment process could not accommodate, and gather insightful information that such a process would miss.

Broadcasters do not need the added incentive of a minimum amount of local or national political and civic discourse programming to provide their communities with an outstanding menu of election-time coverage. Local radio and television stations in Washington cover the election from the day the first candidates announce their campaigns through the wee hours of Election Night. Stations attempt to provide free, unedited air-time to as many candidates as are willing to accept the offer through coverage of debates, interviews, campaign speeches and

through the broadcast of specially produced “candidate spotlight” features. However, it is frustrating that many candidates fail to take advantage of these opportunities to talk directly to the voters about the issues.

A minimum amount of required political programming would create a quagmire for candidates, a trap for stations and a disservice to the public interest. A right of reasonable access for state and local candidates would bring with it more candidate commercial announcements, if that can even be imagined; higher costs of broadcast political advertising with bidding wars between candidates; and, a complete disregard for regular advertisers who rely on radio and television advertising for the promotion of their livelihood.

The notion that a station can only serve the public interest by being all things to all people at all times continues to be the *de facto* standard against which station efforts are judged. Today, that theory neither reflects the expectations of the public it is intended to serve, nor the reality of the broadcast marketplace. It is time for the Commission to revisit the public interest standard in a holistic manner and recognize that the public interest, convenience and necessity can be served by each station making its own unique contribution to the service of the entire community.

Despite the critical role that emergency managers and first responders play in safeguarding life and property, stations are very reluctant to turn the airwaves over to local emergency management agencies solely at the discretion of the agency. Broadcasters have a low level of confidence in emergency managers’ ability to discriminate between events worthy of an EAS activation and those that are minor or narrowly localized. The Association urges the Commission to reject suggestions that local and state emergency managers have unfettered access to broadcast station facilities.

I. INTRODUCTION

The Washington State Association of Broadcasters (hereinafter the "Association"), by its attorney in this matter and pursuant to Sections 1.415 and 1.419 of the Commission's Rules [47 C.F.R. 1.415, 1.419] hereby submits its Comments in response to the Commission's Notice of Inquiry in the above captioned proceeding.

The Association appreciates the opportunity to present the views of its members on the Commission's inquiry on the service to their local communities provided by free, over-the-air broadcasters. The Association is a not-for-profit association, organized under the laws of the State of Washington, for the purpose of the advancement of the broadcasting industry in the state of Washington; to protect and promote generally the interests of the broadcasting industry; and, to foster a legal and regulatory environment conducive to the welfare and benefit to the broadcasting industry and its mandate to broadcast in the public interest, convenience and necessity. The Association has a direct interest in this matter because its collective membership includes approximately 156 local radio stations and 23 local television stations licensed by the Commission to serve the needs of local communities within the state of Washington.

II. DISCUSSION

"...in the public interest, convenience and necessity." Those words, added to the 1927 Radio Act by Washington's own United States Senator Clarence C. Dill, form the common commitment of community service for Washington's free, over-the-air broadcasters, whether they are radio or television stations, large or small, commercial or non-commercial.

Washington's broadcasters play a vital and active role in the lives of every Washington community every day. They are justifiably proud of the good work they do for their neighbors. Washington's local radio and television stations work as hard every day to benefit their communities as they do to make their businesses a success. They recognize that serving the many, varying and sometimes conflicting needs of their local communities is the touchstone of

success in the broadcasting industry. The Association appreciates this opportunity to share with the Commission information about Washington stations' service to their communities. Since 1998, the Association has surveyed Washington broadcasters to identify their efforts to serve the public interest, convenience and necessity in their communities. In even numbered years, the Association has focused on community service. In odd numbered years, the subject has been the coverage stations have given to political candidates and issues. This Comment draws heavily from the Reports of those surveys, which are attached hereto as Exhibits A through F.

A. Communication with Communities: Ascertaining the Basis for Issue Responsive Programming

Determining the needs and interests of the community it serves is the foundation of a broadcaster's services in the public interest. The Commission should not, however, return to a rigidly structured ascertainment procedure. The Commission has previously characterized its experience with ascertainment in the adversarial arena as "litigation over trivia." *Revision of Application for Construction Permit for Commercial Broadcast Station*, 50 RR 2d 381, 382-383 (1981).

The Commission's reasons for eliminating the formalities of ascertainment, while continuing to require licensees to provide issue-responsive programming, are as valid today as they were then. Before the elimination of formal ascertainment, stations routinely were required to defend license renewal challenges based on form, rather than substance. Challenges were based on a station's failure to gather input from a sufficient number of persons in a specific category or categories. Rarely were challenges based on a station's lack of issue-responsive programming.

Accordingly, in all future proceedings, the focus of our inquiry shall be upon the responsiveness of a licensee's programming, not the methodology utilized to arrive at those programming decisions. If the programming presented by the licensee satisfies its obligation, the ascertainment efforts of the station are irrelevant.

Commercial TV Deregulation Order, 98 FCC 2d 1076 at Paragraph 54 (1984). If a station's programming is serving its community's needs, how the station determines those needs and programs that address them is "irrelevant."

Washington radio and television stations continue to ascertain the needs and interests of their communities in myriad ways; ways that cannot be adequately captured or accounted for within a rigidly structured ascertainment scheme; ways that collect information about their communities that would be otherwise lost or overlooked.

While ascertainment does provide the licensee with knowledge of the community, it is clearly not the exclusive means of acquiring this knowledge, and is certainly not the most efficient. Licensees, like other citizens, are exposed to newspapers, newsletters, town meetings and other community activities, all of which provide indications of those issues that are important to the community. Broadcasters do not operate in a vacuum....

Id.

"We find a wealth of great programming ideas in the Ascertainment Meetings," says Lisa Thompson, Director of Community Relations & Station Communications at KING-TV, Seattle, WA. The radio and television stations in the Seattle market participate in a three-hour Ascertainment Meeting monthly from September through May. The purpose of these meetings is to meet with community leaders and non-profit organizations to learn from them what their issues and concerns are. Each month, six guest speakers from the community are invited by the host station and they are asked to talk about community issues and concerns from their standpoint as community leaders. Some stations compile the issues that are discussed and the station's news department uses them to see where they should do more coverage. Other stations take issues that are raised at these meetings and develop other kinds of programming, from long-form public affairs programming to public service announcement campaigns.

KNDO-TV, Yakima, WA, invites 30 to 40 people from various sectors of the community to discuss questions that the stations should be asking about the community. Then, a survey is

done involving about 1,200 people from the community. The small group identifies the questions the survey needs to ask; the large group provides the solid informational feedback.

“We use a large portion of it in determining issues to cover in news and other programming. We did a huge news story on heart care in the Tri-Cities because through this process we found that 80% of the people felt that there wasn’t quality heart care in the Tri-Cities and that they had to leave the area to get it. We ended up doing an extensive news report on what heart care is and is not available in the Tri-Cities purely based on this research.”

Raymond Ochs, Manager of Viewer Development for KNDO-TV. After the survey information is finalized, KNDO-TV holds a community meeting with about 300 business and community leaders, elected officials and opinion leaders to share with them the findings of the survey and solicit still more feedback on issues that matter to the community.

KHQ-TV, Spokane, WA, regularly hosts meetings with 25 to 30 people from various walks of life and organizations throughout the community, a wide range of community opinion leaders. Station management personnel listen to what the guests have to say, and then break the community representatives up into small table-top groups. Each group reports on its discussions identifying issues that were raised. These meetings are used to compile KHQ-TV’s “10 Priority Issues,” which serve as the catalyst for programming.

A rigid ascertainment structure will only lead broadcasters and the Commission back to the days of haggling over whether four clergy ascertainment interviews are sufficient rather than five; or, whether the station should have had ascertainment meetings with equal numbers of city and county elected officials; or whether the station’s ascertainment information gathering was equally representative of the geographic areas of its coverage area. A rigid, formal ascertainment process quickly will bog down the Commission and broadcasters in arguments purely of form over substance without shedding any light on the broadcaster’s issue-responsive programming performance.

Instead, the Commission should encourage creativity in the design process for ascertaining the issues and concerns that drive issue-responsive programming. The Commission should encourage a wide-ranging inquiry by the station, customized to the unique circumstances of the relationship between the station and its community. A rigidly prescribed process will stifle the richness of the voices of the community, not enhance them. A one-size fits all ascertainment mechanism can only lead to one-size fits all programming, clearly a detriment to the public interest. The Commission should leave the method of ascertaining the community's needs to the station and its community.

B. Community Responsive Programming: Supporting the Local Community as a Whole

Washington's local radio and television stations provide support for every aspect of life, every day, in their communities.

Charitable Events. Some interest groups, indeed even some Commissioners, have denigrated the efforts of local broadcasters to assist their communities' charitable organizations in raising awareness of those groups' programs and resources; or, assisting them in raising sorely needed funds. Imagine, however, the plight of charitable organizations from large national charities to small local groups if there were no broadcast assistance for them. "One thing we broadcasters do is we empower people who want to help. By getting the word out, we facilitate the efforts of groups who have a great need, but require someone in the community to give them a voice." Lon Martin, Win Richards, New Northwest Broadcasters, Kennewick, WA.

Whether it's assisting the American Red Cross find donors when blood supplies are at critical levels; helping Habitat for Humanity build homes; providing Teddy Bears for local law enforcement and emergency first responders to give to kids in trauma; collecting tons and tons of food for local food banks; clothing cold kids; or helping a small town build its "Playground of

Dreams,” Washington broadcasters are proud of their efforts on behalf of organizations in their communities whose causes and needs would otherwise be unknown.

Broadcasters never forget that every day is a day of need for someone; and that attention-getting events cannot overshadow the ongoing needs of those less fortunate in their communities. The Commission should never trivialize the efforts of local broadcasters to play a role in assisting their community organizations who need a voice. Instead, it should applaud local radio and television stations for the donation of their resources and air-time to make their communities a better, caring place to live.

Bringing Issues to the Community. Washington broadcasters identify issues of importance to their communities and present programming that is responsive to those issues. “If [community organizations] think it’s a problem, then we think it’s a problem and we want to participate in exploring the problem and helping the community find a solution,” says Jon Rand, General Manager of KAYU-TV, Spokane, WA.

KONP in Port Angeles, WA, rallied the entire community to develop a new, attractive natural buffer between downtown and the industrial area, opening up a creek that had been culverted for more than 40 years and creating a new estuary with salmon and waterfowl habitat. KONP dedicated an entire day to the Valley Creek Estuary.

KIRO-AM, Seattle, WA, always looks for ways to bring community leaders to their listeners and their listeners to community leaders. Seattle’s Police Chief has his own show, once a month, to field questions from the listeners and talk about what the Department is doing in the community. KIRO takes advantage of regular hosts’ vacations to provide a forum for discussion of current issues by a variety of community leaders. A former Washington Governor has been a substitute host, as has a sitting State Supreme Court Justice and a State Senator.

KAYU-TV, Spokane, WA, uses its “Town Hall Meetings” as a forum to give the community an opportunity to talk about a specific issue, and for the station to gather information

about the needs of the community and tailor its programming with those needs in mind. KAYU-TV's Town Hall Meetings are not regularly scheduled; each one is created each around a specific issue. Without exception, every time KAYU-TV has been asked to do one, it has created a Town Hall Meeting.

Salmon fishing is big business, great sport and an issue of concern throughout Washington. In 1999, as soon as a bill was introduced in the Washington Legislature that would have made significant changes in laws dealing with salmon habitat, KIRO-TV, Seattle, WA, partnered with the Washington Forest Protection Association to produce a half-hour special focusing viewers' attention on the issue of salmon. The special discussed the effect of the proposed legislation on the many individuals involved with issue and what the public could do to help save the salmon. KIRO-TV also broadcast public service announcements and vignettes about the salmon issue to further help their viewers make informed decisions on this critical issue.

Washington broadcasters large and small seek opportunities to engage their audience, not just to beam programming to them. Bringing community issues into focus takes many forms: Talk shows, newscasts, dedicated public affairs programming, commentary and, even some entertainment programming.

Broadcasters Give Their All in Time of Crisis. Emergency information is one of the most basic and locally oriented kinds of programming that radio and television stations provide. In times of crisis, stations routinely eliminate their regular programming, including all commercial announcements, to make the airwaves available for life-saving information.

When a gas pipeline exploded near Bellingham, WA, sending a ball of flaming gasoline into a creek and through a park, KGMI-AM and its sister stations KISM-FM and KAFE-FM became "command central." KGMI-AM suspended all regular programming and began continuous coverage of the disaster. Reporters brought in stories from the scene and relayed

information from authorities from the time of the explosion at about 4 o'clock in the afternoon until well after 10 o'clock that evening. The station received calls from concerned citizens far and wide, so they quickly suspended all programming on sister stations, KISM and KAFE, and began simulcasting the news and information being broadcast on KGMI, beaming coverage to more than seven counties. The stations broadcast reports of pools of gas and other potential hazardous situations and periodic updates from police and fire officials. The staff of these three small market stations was on-the-air for almost 12 hours straight by the time the story was over.

KGY-AM/FM, Olympia, WA, sits on pilings over the waters of Puget Sound less than five miles from the epicenter of the 2001 Nisqually Earthquake. The building shook violently, a window shattered, light fixtures fell and water from a broken hot water tank gushed from the ceiling. Within 5 minutes, station general manager and morning host for more than 34 years, Dick Pust, went back on the air to anchor the station's emergency coverage. For more than 5 hours, KGY suspended all regular programming and commercials to provide live, continuous emergency coverage. An "open mike" was made available to anyone who had earthquake information. School officials, city utility representatives, Olympia's Mayor, the Secretary of State, the State Librarian and many other local officials came into the station to give live reports.

After that same earthquake, a listener to KELA-AM, Centralia, WA, 20 miles south of the center of the quake said, "I was hysterical trying to get home and check on my family when I tuned in KELA. Then I heard calm and reassuring voices telling me what happened and what to do." Local broadcasters, the calm reassurance of a familiar voice.

Washington broadcasters were not directly affected by the events of September 11, 2001, but their listeners and viewers were understandably shaken, nonetheless. The Tri-Cities area of south-central Washington includes the Hanford nuclear facility and the Umatilla Weapons Depot, just across the Columbia River. On September 11, 2001, citizens were left wondering about the vulnerability of those potential terrorist targets. KONA-AM/FM, Tri-Cities, took

extraordinary measures to contact authoritative representatives from each of those critical facilities, so that KONA could report to their employees about new security procedures and other changes that they would face when they came to work. Reassuring the community that these facilities were safe was also a high priority for KONA, with the station providing live coverage to keep listeners informed.

Defining what programming is responsive to “local” needs is not a job for a federal agency. The tens of thousands of communities throughout America, large and small, defy categorization. Their interests, issues and needs reflect their own unique place in our country; defining themselves uniquely, as only Americans can. The Commission should leave the determination of what programming is responsive to each local community to the relationship that local broadcasters have with their community leaders and citizens.

The Commission can rely comfortably on the viewers and listeners in each local community to make their needs known. Clearly, activists in every community are not reticent voice their opinions, nor should they be. The “Letters from the Public” section of every station’s Local Public Inspection File attests that local broadcasters receive significant input from their local communities. No scheme the Commission could devise would be even remotely as effective as the relationship between a local broadcaster and its audience.

C. Local Broadcasters Provide a Wealth of Political Candidate and Issue Programming

Broadcasters do not need the added incentive of a minimum amount of local or national political and civic discourse to provide their communities with an outstanding menu of election-time coverage. Washington broadcasters have a long and distinguished history of service in public affairs and political broadcasting. A Seattle station was one of the 27 founders of the first national political broadcast network that provided coverage of the Coolidge campaign of 1924.

Local radio and television stations in Washington cover the election from the day the first candidates announce their campaigns through the wee hours of Election Night. Washington broadcasters routinely provide time for candidates running for elective offices ranging from President to Port Commissioner; from Governor to Superior Court Judge; from County Commissioner to United States Senator; from State Legislator to Public Utility District Commissioner. Washington's general election ballot is never at a loss for Initiatives to the People and those are covered in-depth, as well.

Candidates representing major, minor and heretofore unknown parties appear. One station even hosted its community's "Election Night Gala" combining public participation, election returns and interviews with the winning (and losing) candidates.

Candidates take to the air, talking directly to the voters, in their own words, in debates, live interviews, newscast coverage, taped responses to citizen questions and in open-line voter call-in programs. In election years, stations also provide extensive information on their web sites adding context, analysis and direct contact for the public.

Debates. In a debate, not only do voters discover the positions of the candidates, but they get a glimpse of how each candidate reacts under pressure. Washington stations carry the Presidential and Vice-Presidential debates, of course. However, they also produce and cooperatively air, statewide, debates for Governor, United States Senator and other statewide offices. Local stations produce and broadcast debates for local congressional seats, mayoral races, contests for attorney general and countless county positions.

Debates or baseball? Gore vs. Bush or Mariners vs. Yankees? Viewers did not have to make that choice. KING-TV/KONG-TV, Seattle, WA, served Western Washington communities by broadcasting both. When NBC gave its affiliates the ability to carry either a presidential debate or baseball, Belo Corporation was able to broadcast them both *live*. The debate was broadcast live, as it happened, on Belo's, KONG-TV, throughout Western

Washington. Belo's "duopoly" ownership of KING-TV/KONG-TV enabled the stations to provide the voters of Western Washington with this public service and still permit Mariners fans to see the crucial playoff game against the Yankees.

KREM-TV, Spokane, WA, broadcast an hour-long debate between Washington's incumbent Fifth District Congressman and his challenger. In addition, KREM-TV, which also serves all of Northern Idaho, broadcasts separate, one-hour debates for major Idaho elective races, including gubernatorial, congressional and senatorial debates.

Stations also broadcast debates between mayoral and state legislative candidates, county positions and candidates for other elected offices. KXLE-AM/FM, Ellensburg, carried twenty-minute debates between candidates for County Assessor, County Clerk, County Treasurer and Sheriff. KMAS-AM, Shelton, carried a live, two-hour "town meeting" two weeks before the election that broadcast debates, including debates between candidates for Mason County Public Utility District Commissioner; County Commissioner; and, all six candidates for both 35th Legislative District State House of Representative seats and the 35th Legislative District State Senate seat.

Candidate Accountability. Some stations provide in-depth analysis of candidates' claims and promises. Many do this in the context of their news coverage of specific campaign appearances. KING-TV, Seattle, WA, assigns its political news reporter to host a special feature, called "*Ad Watch*" designed to provide viewers with facts that could help them sort through the claims made in political ads aired prior to the election.

Special "Candidate Spotlight" Programming. Stations attempt to provide free, unedited air-time to as many candidates as are willing to accept the offer. Programming such as "*It's Your Time*" aired on KING-TV and KONG-TV, Seattle, WA, and on KREM-TV and KSKN-TV, Spokane, WA; "*Straight Talk*" aired on Fisher Broadcasting radio and television stations in Seattle and Yakima, WA; and other, similar versions of "Candidate Spotlight" programming air

on stations throughout Washington. Stations put together a package of opportunities for candidates to appear in their own words, unfiltered by advertising techniques, newscast time constraints, debate rules or other limiting factors. Just the candidate, pure and simple.

Reluctant Candidates Frustrate Broadcasters. Unfortunately, it is not that simple. As many candidates refuse to participate as take advantage of this opportunity. Any requirement that radio and television stations broadcast a minimum amount of “candidate/issue-centered discourse” will carry with it an obligation for candidates, as well as broadcasters. Broadcasters can only provide as much exposure on their stations as candidates are willing to accept. If a station had to meet such a requirement, the refusal of a candidate to appear on that station’s newscast for an interview or participate in special free time programming, such as “*It’s Your Time*,” or “*Straight Talk*,” could place the station in jeopardy of violating the minimum requirement of “candidate-centered discourse,” through no fault of the station’s.

For example, during the 2002 campaign, many candidates refused to accept station invitations to participate in their “candidate-centered discourse” programming. In the Tri-Cities, the “*Straight Talk*” segments on Fisher’s KEPR-TV were offered to all candidates several times. Only a candidate for Walla Walla County Commissioner accepted the offer. KRKO-AM, Everett, WA, issued an open invitation to the Snohomish County Prosecutor to debate his opponent, live on the station. The incumbent refused to appear and the debate never happened. KRKO offered debate time to the congressional candidates for Washington’s 2nd Congressional District, as well, but the candidates did not accept that invitation. KXLY-TV, Spokane, WA, offered many candidates the opportunity to appear live, on the station’s 5 o’clock newscast for a three-minute interview. While many accepted, the incumbent Idaho Governor declined, as did the incumbent Idaho United States Senator, even though their opponents appeared, and the only source of broadcast TV in all of Northern Idaho comes from the Spokane stations.

A Required Minimum Amount of Political Programming will Mire Campaigns in Continuous Broadcast Appearances and Trap Stations. The inability or refusal of candidates to accept offers of free airtime presents a critical problem for both candidates and stations should the Commission mandate a minimum amount of candidate/issue oriented programming: Where does that programming come from if the candidates or issue advocates decline, or are unable, to participate? In large markets, such as Seattle, stations have a lot of candidates and elective races to choose from; but, on the other hand, there are a lot of stations. Each candidate would have to make multiple appearances on upwards of 60 radio stations and more than a dozen television stations, in addition to any other campaigning they might be able to squeeze in.

Small market broadcasters have a more protracted problem. They serve communities that seldom receive in-person visits from candidates and their own crop of local politicians is small indeed, and is up for election in off-years. Even in a presidential or mid-term election year, KCVL-AM/KCRK-FM, Colville, WA, for example, would have, at best, one set of congressional candidates. The rest of the candidates on the ballot would be statewide elective offices, such as Governor, Lt. Governor, Attorney General, etc. and in some years a United States Senate seat. A station such as KCVL would be lucky to have one in-person visit from the congressional candidates during the entire campaign, and perhaps a phone call or two. They would be highly unlikely to get a visit from any campaigners for statewide office. How would these stations comply with a requirement that they broadcast even a small amount of candidate/issue centered discourse every week?

In the case of large market stations, it is a trap for the candidates. They would have little time to do anything but shuttle from station to station making appearances so that the station could comply with the Commission's requirement. In small markets, where candidates cannot justify spending time campaigning, the stations would face the certainty of being unable to collect enough candidate/issue discourse to discharge their obligation.

D. Right of Reasonable Access for State and Local Candidates

The Commission Does Not Have the Authority to Expand the Right of Reasonable Access to State and Local Candidates. Federal candidates have a right of reasonable access to the use of each station's facilities. 47 U.S.C. 312(a)(7). Congress created this right specifically for federal candidates. It could have extended the right to all candidates, as it has with provisions for lowest unit charge, equal opportunities, and non-censorship. [See e.g., 47 U.S.C. 315(a), (b)]. However, Congress did not do so and, therefore, the Commission lacks the authority to extend the right of reasonable access to state and local candidates. Only Congress can give state and local candidates a right of reasonable access.

State and Local Candidate Right of Reasonable Access Would Be Detrimental to the Public Interest. Even if the Commission possessed such authority, it would be a grave mistake to exercise it. It is hard to imagine any more political advertising during the waning weeks of an election. Stations now have a difficult enough time servicing their regular advertisers. Providing state and local candidates with a right of reasonable access would result nothing but candidate advertising on-the-air for weeks at a time. When advertisers have money to spend and business to promote, they need access to their advertising media then, not months afterward following an election. Advertisers that broadcasters cannot accommodate during campaign periods take their advertising dollars elsewhere and are less likely to return.

Broadcasters have little or no flexibility to add more commercial announcements. Television stations would be particularly hard hit because there is a limited number of commercial breaks in each program; within those breaks only a limited number of advertisements can be broadcast. The elasticity of spot loads in radio is different. Listeners have intense sensitivity to the number of announcements broadcast by a radio station and are not hesitant to tune to a competitor if advertisements become overbearing. One of America's largest radio licensees has recently announced a "Less is More" philosophy, reducing the number of

commercial announcements aired each hour in recognition of listeners' dissatisfaction with "clutter" and increased spot loads. The additional commercial advertisements that would result from providing reasonable access to state and local candidates would drive radio listeners to competing media and simply could not be accommodated by television stations.

State and Local Candidate Right of Reasonable Access Would Result in Candidates Paying Even More for Advertising. Broadcast advertising rates are driven by the law of supply and demand. When demand is great, rates move upward. Whether it is the lowest unit charge or the highest unit charge, the rising tide of demand for advertising lifts all rate boats. Providing reasonable access to state and local candidates will dramatically increase demand for airtime and, therefore, broadcast advertising rates will increase concomitantly. Candidates will pay even more for political advertising than they do now. Moreover, once all of the available advertising slots have been taken by political advertising (i.e., all regular non-political advertisers have been "bumped" or priced-out) candidates will begin bidding against each other in hopes of bumping each other off the air by bidding up the price that they will pay to secure airtime. Those candidates with the most substantial campaign war chests, most often federal candidates, will take the time, to the detriment of the state and local candidates, and the public interest.

E. Stations Should Not Required to Be All Things to All People All of the Time

The Commission seeks comment on whether it needs to consider additional ways to ensure that broadcasters serve the needs and interests of all significant segments of their communities. NPRM at Paragraph 26. The Commission has said that "balanced programming does not necessarily require that a station attempt to provide service to all segments of the community in markets where multiple broadcast stations are available...." NPRM at Paragraph 24.

Unfortunately, the notion that a station can only serve the public interest by being all things to all people at all times continues, in practice, to be the *de facto* standard against which

station efforts are judged. That assumption, essentially that every station's performance is assessed in a vacuum, which underlies how regulators and activist special interest groups evaluate a broadcaster's service in the public interest is approaching its 80th anniversary. The "all things to all people all the time" paradigm was appropriate when there were only a handful of stations licensed to even the largest cities, and many towns relied on stations at some distance to provide their only broadcast service. Today, the "all things" theory reflects neither the expectations of the public it is intended to serve, nor the reality of the broadcast marketplace.

To be certain, the Association does not advocate the elimination of the public interest standard. Broadcasters have embraced that responsibility from the beginning and built a system of broadcasting upon that foundation that is the envy of every country in the world. There is no reason to disavow that commitment today. However, the American public long-ago abandoned the expectation that every station would serve every need of every listener or viewer, regardless of what else they found on their radio dial, their cable system or satellite provider. Out of necessity, broadcasters have followed the changing expectations of the public.

It is long past time for the Commission to recognize that radio listeners and television viewers no longer experience the limited variety of the 1960s. It is long past time for the Commission to recognize that the "public interest, convenience and necessity" is personified by the larger community, including all of the broadcast and other media the local community has at its command. The Commission should make a commitment to revisit the public interest standard and recognize that the public interest, convenience and necessity is faithfully served by each station making its own unique contribution to the service of the entire community.

F. Mandatory Availability of Station Facilities to Local Emergency Managers

The Association urges the Commission to reject suggestions that local and state emergency managers be allowed unfettered access to broadcast station facilities.

Despite the invaluable and critical role that emergency managers and first responders play in safeguarding life and property, stations are very reluctant to turn the public's airwaves over to local emergency management agencies solely at the discretion of the agency. Broadcasters have a low level of confidence in emergency managers' ability to discriminate between events worthy of an EAS activation and those that are of minor impact or are narrowly localized events. Each broadcaster must retain the responsibility to determine which emergency activation events it will transmit to the public. Based upon recent experience with the Emergency Alert System in Washington state, failure of the Commission to reserve this duty to the licensees would result in activations for minor incidents or events; accidental or erroneous, incorrect and mistaken activations; or, activations for very narrow geographic areas unsuited for a sweeping broadcast EAS activation. Ultimately, viewers and listeners would begin to ignore EAS activations, just as most people today rarely pay any attention to automobile alarm systems.

"There really was a wolf here. The flock scattered! I cried out, 'Wolf!' Why didn't you come?" An old man tried to comfort the boy as they walked back to the village. "When you cried 'Wolf!' before," the old man said, "you should have said, 'This is only a test.'"

With apologies to Aesop.


II. CONCLUSION

The Association urges the Commission to reject the temptation to return to the days of rigidly formalistic ascertainment, while recognizing the rich diversity of programming and non-programming efforts made by free, over-the-air broadcasters in serving their communities every day. The Commission should avoid any intrusive regulatory steps that would require a minimum amount of candidate/issue centered discourse as disruptive to campaign strategies and broadcast programming. The Association suggests that the Commission does not have the statutory authority to extend the right of reasonable access to state and local candidates; but, even if it did, doing so would drive away the very listeners and viewers that candidates want to reach. It would

also send the cost of broadcast political advertising skyrocketing. Finally, the Commission should not require stations to provide access to local emergency managers for activation of the Emergency Alert System.

Respectfully submitted,

WASHINGTON STATE ASSOCIATION OF BROADCASTERS

By 
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Dated: November 1, 2004.

EXHIBITS

**Before the
Federal Communications Commission
Washington, D. C. 20554**

In the Matter of:

Broadcast Localism

To the Commission:

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)

MB Docket No. 04-233

**COMMENTS OF THE
WASHINGTON STATE ASSOCIATION OF BROADCASTERS**

EXHIBIT A

“... in the public interest.”



A REPORT ON SERVICE TO OUR COMMUNITIES FROM
THE BROADCASTERS OF WASHINGTON STATE

February, 1998